

**BEFORE THE TAX COMMISSION OF THE STATE OF IDAHO**

In the Matter of the Protest of	)	
	)	DOCKET NO. 19768
[Redacted],	)	
	)	DECISION
Petitioner.	)	
_____	)	

This case arises from a timely protest of a State Tax Commission staff decision to deny the property tax reduction benefit for 2006. This matter was submitted for a decision based on the documents in the file. The State Tax Commission has reviewed the file and makes its decision.

[Redacted] (petitioner) filed a property tax reduction benefit application on February 15, 2006. Pursuant to Idaho Code § 63-707(5) the State Tax Commission reviewed the application and compared it with the petitioner's income records. Nontaxable annuities that had not been included in the application were identified.

The staff sent the petitioner a letter advising her that her income total for the purpose of the property tax reduction benefit was going to be increased to include the nontaxable portion of the annuities. The petitioner protested the intended action that would result in denial of her benefit. The petitioner's file was transferred to the Legal/Tax Policy Division for administrative review.

All property within the jurisdiction of this state is subject to property tax. A property tax reduction benefit program is available to certain qualifying individuals throughout the state. The benefit is in the form of payment (either total or partial) of the applicant's property tax on the dwelling he/she owns and occupies. The payment is funded by state sales tax.

The amount of property tax reduction depends on income--the greater the income, the smaller the benefit. However, income is defined differently for the property tax reduction benefit program

than it is described in the income tax code. Income for property tax reduction benefit purposes is defined in Idaho Code § 63-701(5):

(5) **"Income" means the sum of federal adjusted gross income** as defined in the Internal Revenue Code, as defined in section 63-3004, Idaho Code, and to the extent not already included in federal adjusted gross income:

(a) Alimony;

(b) Support money;

(c) Nontaxable strike benefits;

(d) **The nontaxable amount of any individual retirement account, pension or annuity,** (including railroad retirement benefits, all payments received under the federal social security act except the social security death benefit as specified in this subsection, state unemployment insurance laws, and veterans disability pensions and compensation, excluding any return of principal paid by the recipient of an annuity and excluding rollovers as provided in section 402 or 403 of the Internal Revenue Code);

(e) Nontaxable interest received from the federal government or any of its instrumentalities or a state government or any of its instrumentalities;

(f) Worker's compensation; and

(g) The gross amount of loss of earnings insurance.

It does not include gifts from nongovernmental sources or inheritances. To the extent not reimbursed, the cost of medical care as defined in section 213(d) of the Internal Revenue Code, incurred or paid by the claimant and, if married, the claimant's spouse, may be deducted from income. To the extent not reimbursed, personal funeral expenses, including prepaid funeral expenses and premiums on funeral insurance, of the claimant and claimant's spouse only, may be deducted from income up to an annual maximum of five thousand dollars (\$5,000) per claim. "Income" does not include veterans disability pensions received by a person described in subsection (1)(e) who is a claimant or a claimant's spouse if the disability pension is received pursuant to a service-connected disability of a degree of forty percent (40%) or more. "Income" does not include dependency and indemnity compensation or death benefits paid to a person described in subsection (1) of this section by the United States department of veterans affairs and arising from a service-connected death or disability. "Income" does not include lump sum death benefits made by the social security administration pursuant to 42 U.S.C. section 402(i). Documentation of medical expenses may be required by the county assessor, board of equalization and state tax

commission in such form as the county assessor, board of equalization or state tax commission shall determine. "Income" shall be that received in the calendar year immediately preceding the year in which a claim is filed. Where a claimant and/or the claimant's spouse does not file a federal tax return, the claimant's and/or the claimant's spouse's federal adjusted gross income, for purposes of this section, shall be an income equivalent to federal adjusted gross income had the claimant and/or the claimant's spouse filed a federal tax return, as determined by the county assessor. The county assessor, board of equalization or state tax commission may require documentation of income in such form as each shall determine, including, but not limited to: copies of federal or state tax returns and any attachments thereto; and income reporting forms such as the W2 and 1099. (Emphasis added.)

The calculation of income starts with federal adjusted gross income and, thereafter, makes certain additions and deductions. The nontaxable portion of annuities is specifically required to be included in income to determine the benefit amount a qualified applicant is to receive. The only exception is if the annuities are determined to be qualified as “rollovers as provided in section 402 or 403 of the Internal Revenue Code.”

The petitioner submitted evidence that supported the rollover of \$80,000 of the funds from two qualified accounts to two other qualified accounts. However, nothing was submitted to suggest the remaining \$4,774.61 shown as disbursements in two different 1099s issued [Redacted] was also rolled over.

The property tax reduction benefit is not federal or state income tax – it is payment of property tax based on certain qualifying factors including income. Pursuant to the definition of income as stated in Idaho Code § 63-701(5), the nontaxable portion of annuities is required to be included in income to determine the benefit amount an applicant qualifies to receive. Without

evidence the \$4,774.61 qualified as a rollover, the State Tax Commission must consider the funds as income for the purpose of this benefit.

In her application, the petitioner listed social security income of \$14,568, pensions of \$150, interest of \$253, and her \$35 grocery credit. Because the grocery credit is a reimbursement of sales tax paid on groceries, it is not included as income. When the nontaxable portion of the annuities (\$4,774.61) is added to the income the petitioner reported and her out-of-pocket medical expenses (\$4,495) are subtracted, the petitioner's total net 2005 income for the purpose of the property tax reduction benefit is \$15,504. She qualifies to receive a 2006 property tax reduction benefit of an amount not to exceed **\$1,020**.

The State Tax Commission is aware there is some potential this decision could cause a hardship to the property tax reduction benefit applicant. The proper jurisdiction to handle such hardship situations falls with the county commissioners pursuant to Idaho Code § 63-711.

WHEREFORE, the decision of the State Tax Commission staff to deny the property tax reduction benefit is hereby MODIFIED, and as so modified, is APPROVED, AFFIRMED, and MADE FINAL.

An explanation of the petitioner's right to appeal this decision is included with this decision.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

IDAHO STATE TAX COMMISSION

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COMMISSIONER

## CERTIFICATE OF SERVICE

I hereby certify that on this \_\_\_\_\_ day of \_\_\_\_\_, 2006, a copy of the within and foregoing DECISION was served by sending the same by United States mail, postage prepaid, in an envelope addressed to:

[Redacted]

[Redacted]

[Redacted]

Receipt No.

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